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Report of the Independent Expert on the enhancement of capacity-building and technical cooperation with Côte d'Ivoire in the field of human rights*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on the enhancement of capacity-building and technical cooperation with Côte d'Ivoire in the field of human rights, Mohammed Ayat.

The report provides an account of the fifth visit by the Independent Expert to Côte d'Ivoire from 10 to 17 January 2017 and covers the period from 28 May 2016 to 15 April 2017. It sets out the present status of the recommendations made in the reports on previous missions. The Independent Expert emphasizes that his visit also enabled him to continue a dialogue with the authorities of Côte d'Ivoire on their needs for the enhancement of capacity-building in the field of the protection and promotion of human rights.

The mission coincided with the entry into force of a number of amendments to the Constitution, which were adopted by referendum on 30 October 2016, and particularly the appointment of the Vice-President of the Republic. It also coincided with a ministerial reshuffle. The Independent Expert was, nonetheless, able to meet representatives of the Ivorian authorities, and, in particular, the Minister of Justice, the Minister of Human Rights and Civil Liberties and the Minister of Women, Child Protection and Solidarity, formerly the Minister of Solidarity, Social Cohesion and Compensation of Victims.

The Independent Expert also held meetings with the Chair of the National Human Rights Commission of Côte d'Ivoire, the Chair of the Independent Electoral Commission, the Vice-Chair of the National Commission for Reconciliation and Compensation of Victims and the Ombudsman of the Republic. He met senior judges, including the Prosecutor General of Abidjan Court of Appeal and the government prosecutor of the Abidjan court of major jurisdiction responsible for coordination with the special investigation unit. He also held discussions at a number of meetings with representatives of civil society, including human rights non-governmental organizations (NGOs) and victims' associations. In addition, he paid a follow-up visit to the Juvenile Observation Centre.

Furthermore, the independent Expert held a meeting with the Special Representative of the Secretary-General for Côte d'Ivoire and with representatives of the United Nations

* The present report was submitted late in order to reflect the most recent developments.

specialized agencies present in Côte d'Ivoire. Lastly, he had the opportunity to hold an exchange of views with the diplomatic corps at a meeting for diplomats accredited to Côte d'Ivoire and to hear their thoughts on the present state of the country.

The Independent Expert wishes to thank the Ivorian authorities for having agreed to welcome him to Côte d'Ivoire and for their open and sincere cooperation. He also wishes to express his gratitude to all those whom he was able to meet in order to gather useful information and discuss issues relating to his mission.

Lastly, the Independent Expert would like to extend his warm thanks to the United Nations operation in Côte d'Ivoire and the Office of the United Nations High Commissioner for Human Rights for their valuable technical and logistical support.

Report of the Independent Expert on the enhancement of capacity-building and technical cooperation with Côte d'Ivoire in the field of human rights

Contents

		Page
I.	Introduction	4
II.	General situation in the country	4
	A. Economic situation	4
	B. Security situation	4
	C. Political situation	5
III.	Status of human rights institutions	6
	A. Ministry of Human Rights and Civil Liberties	6
	B. Ministry of Solidarity, Social Cohesion and Compensation of Victims	6
	C. National Human Rights Commission of Côte d'Ivoire	7
IV.	Human rights situation	8
V.	Transitional justice and national reconciliation	9
	A. Dialogue, Truth and Reconciliation Commission	9
	B. Criminal justice	10
	C. Military justice	11
	D. Abidjan Detention and Correctional Centre	11
VI.	Situation of children in conflict with the law	12
VII.	Constitutional and legislative reforms	13
VIII.	Conclusion and recommendations	14
	A. Conclusion	14
	B. Recommendations	16

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 32/30, adopted on 26 June 2016, in which the Council requested the Independent Expert to present a report and his final recommendations at its thirty-fifth session. The report covers the period from 28 May 2016 to 15 April 2017 and is the outcome of the Independent Expert's fifth visit to Côte d'Ivoire, which took place from 10 to 17 January 2017.

2. The present report is issued in the particular context of the imminent and definitive withdrawal of the United Nations Operation in Côte d'Ivoire (UNOCI). This mission began 13 years ago, on 4 April 2004, under Security Council resolution 1528 (2004) of 27 February 2004 and will end on 30 June 2017, under Security Council resolution 2284 (2016) of 28 April 2016. The departure of the mission poses a major challenge with regard to the need to consolidate the considerable achievements made in Côte d'Ivoire in a number of areas, including national reconciliation and social cohesion; the promotion and protection of human rights; the reform of the defence, security and law-enforcement sectors; the demobilization, disarming and reintegration of former combatants; the management of weapons and civilian disarmament; and communication.

3. These achievements are, first and foremost, the achievements of all Ivorians, who have actively contributed to bringing them about with the support of the international community. In that regard, the Independent Expert wishes to stress that the international community should continue to support Côte d'Ivoire in its efforts to bring about a satisfactory transition towards the full resumption of its rightful role as the protector and promoter of human rights in its territory. Specifically, this includes both safeguarding and consolidating the achievements of a United Nations mission that has largely been successful, in order to prevent any risk of the situation deteriorating following the departure of UNOCI. This departure, while necessary, could turn out to be premature in the light of the evolving situation in the country.

4. The mission of the Independent Expert, who was appointed by the Human Rights Council to support Côte d'Ivoire in the areas of capacity-building and technical cooperation, also ends in June 2017, coinciding with the final departure of UNOCI.

II. General situation in the country

A. Economic situation

5. Côte d'Ivoire has continued to make economic and social progress. This is a very positive and hopeful development. Since 2012, the average annual economic growth rates have been close to double figures. However, the situation presents significant challenges. First, Côte d'Ivoire should strive to maintain this positive momentum by ensuring that economic progress is accompanied by a solid foundation of social peace and political stability. The country's rapid expansion could be undermined by social unrest if grievances are not addressed in good time through sustained dialogue and consultation.

6. In that regard, it must be stressed that, in order for economic progress to be perpetuated, it is necessary for the Government to continue implementing and strengthening a proactive economic policy that ensures that the strategy for macroeconomic development in such fields as infrastructure, institutions and finance is accompanied by a parallel human development in the areas of education, health and social justice, particularly for the benefit of the most vulnerable sectors of the population.

B. Security situation

7. Although efforts to bring about national reconciliation in Côte d'Ivoire have begun to bear fruit, the process remains a slow and fragile one. In this regard, it should be noted that, in January 2017, increased social unrest within the armed forces and the civil service

unions occasionally disrupted the lives of residents, particularly in the city of Bouaké. This reflects a certain social malaise that the Government of Côte d'Ivoire has worked to address. If dialogue and mediation are insufficient to deal with social unrest, that unrest could undermine advances in the area of national reconciliation and damage the security and human rights situation in Côte d'Ivoire. It is essential that the international community should continue to support Côte d'Ivoire in order to strengthen its security and stability.

8. Alarmed by the tension caused by social unrest, the Independent Expert issued a press release on 20 January 2017, following i.s fifth mission, in which he invited all partners to continue calmly engaging in dialogue , making use of mediation and retaining a sense of responsibility. Although the restoration of calm demonstrates the sound negotiating ability of the Government of Côte d'Ivoire, the Independent Expert stresses the importance of remaining vigilant and encourages the Government to adopt a proactive approach to ensure that action is taken before social tensions boil over.

9. The Independent Expert wishes to emphasize that national reconciliation is critical for the present and the future of Côte d'Ivoire. It will be very difficult to build lasting peace and stability in Côte d'Ivoire if serious efforts are not made to heal the wounds of the past. As the Government is fully aware, it is a question of undertaking a long, costly, sometimes painful but utterly essential national process. In that connection, the Independent Expert recalls that the President of the Republic, in his inaugural speech of 4 November 2015, made national reconciliation a priority for his second term.

C. Political situation

10. The Independent Electoral Commission, as the standing constitutional body responsible for organizing elections in Côte d'Ivoire, played a pivotal role in the organization of the 2015 presidential elections. In 2016, it enabled the constitutional referendum of 30 October and the legislative elections of 18 December to take place under peaceful, inclusive conditions. Local elections are due to take place in 2018, when the current mandates of locally elected officials will come to an end.

11. The fact that three elections could be held in free and transparent conditions reflects well on the Independent Electoral Commission. The legislative elections enabled deputies to be elected in 253 of the 255 vacant seats, the Constitutional Council having requested that elections should be held again in two constituencies. It should be noted that the branch of the Front populaire ivoirien (Ivorian Popular Front) that agreed to participate in the legislative elections went on to win three seats in Parliament, including one for its Secretary General.

12. The composition of the Independent Electoral Commission was established following a long process of dialogue and conciliation that enabled a balance to be struck between the majority party and the opposition. This institution represents a step forward in the establishment of dialogue between the various political parties that agree to subscribe to it. On 7 July 2014, however, an Ivorian NGO filed an application with the African Court on Human and Peoples' Rights asking it to order the Government to reform Act No. 2014-335 of 5 June 2014 on the organization, composition, powers and functioning of the Independent Electoral Commission. The Court's decision, which was issued on 18 November 2016, granted the NGO's application and ordered Côte d'Ivoire to reform its law and report back to it within one year.

13. The implementation of the constitutional reform led to the appointment as Vice President of the former Prime Minister Daniel Kablan Duncan in January 2017. With regard to gender parity, it should be noted that, in the new Government, 6 of the 28 ministerial posts that have been filled are held by women.

III. Status of human rights institutions

A. Ministry of Human Rights and Civil Liberties

14. The Ministry of Human Rights and Civil Liberties, which was established in January 2016 as an independent entity, was merged with the Ministry of Justice in January 2017. While recognizing that the Ivorian State has the sovereign right to organize its Government in accordance with its new Constitution, domestic law and any priorities and constraints associated with the budgets allocated to institutions, the Independent Expert believes that the creation of a ministry solely devoted to the protection and promotion of human rights in Côte d'Ivoire had an important symbolic value, which is undermined when responsibility for monitoring human rights issues is given to another ministry that already has very demanding responsibilities.

15. However, it is worth highlighting the significant legacy left by the former Ministry of Human Rights in the activities undertaken in 2016 and set out in the workplan drawn up for 2017. The Independent Expert encourages the Ministry of Justice, Human Rights and Civil Liberties to integrate the workplan, which focuses on protection, promotion and cooperation in the area of human rights, into its own strategies. Protection should be extended throughout the national territory with a view to meeting the expectations of the most vulnerable people. In order to improve the situation of detainees, regular inspections of all places of detention should continue to be carried out and followed up by the implementation of concrete measures. The Independent Expert also encourages the Government to organize campaigns to raise awareness of human rights, in particular through the "human rights caravans" and the human rights clubs established in schools. In addition, he invites the Ivorian authorities to continue the initiatives launched by the then Ministry of Human Rights and Civil Liberties in the area of international cooperation and interaction with the international human rights mechanisms and ensure that the recommendations emanating from the universal periodic review are implemented and followed up.

16. During his visit in January 2017, the Independent Expert also noted the need to strengthen collaboration between the Ministry of Justice, Human Rights and Civil Liberties and the National Human Rights Commission of Côte d'Ivoire, with due regard for the technical and financial independence of the latter institution, in order to monitor activities undertaken to protect and promote human rights.

B. Ministry of Solidarity, Social Cohesion and Compensation of Victims

17. Transitional justice also involves attending to the victims of the crises that Côte d'Ivoire has suffered and, more broadly, strengthening social cohesion. In January 2016, the National Programme for Social Cohesion was upgraded to become the Ministry of Solidarity, Social Cohesion and Compensation of Victims. The cabinet reshuffle of January 2017 assigned the powers of this ministry to the Ministry of Women, Child Protection and Solidarity.

18. For one year, the Ministry of Solidarity, Social Cohesion and Compensation of Victims was active in various ways to bring a measure of calm to social relations among Ivorians. It encouraged Ivorian refugees to return to Côte d'Ivoire by opening an information point for receiving and assisting returnees. Most of the Ministry's activities were supported by UNOCI.

19. In order to put an end to intercommunal tensions, which were sometimes accompanied by violence, the Ministry of Solidarity, Social Cohesion and Compensation of Victims continuously monitored hotbeds of tension, organizing visits to the Bouna region and organizing an intercommunal dialogue in December 2016. The Ministry also monitored the development of intercommunal tensions in Bédiala that arose from conflicts between border communities in Côte d'Ivoire and Mali and were fuelled by disputes over rural land ownership and struggles over the control of chiefdoms. In Bouaké, other recent tensions

caused by the rise in electricity prices were defused when the Ministry of Energy intervened.

20. In 2016, the Ministry of Solidarity, Social Cohesion and Compensation of Victims also facilitated the relocation of populations living in the protected nature reserve of Mount Péko. According to the authorities, the relocation took place peacefully. The Government is currently looking for ways of resettling internally displaced persons (90 per cent of such persons are reported to be of foreign origin and 30 per cent of these would like to return to their country of origin) by identifying cultivable plots of land available for those wishing to stay in Côte d'Ivoire.

21. With regard to the compensation of victims of the crises in Côte d'Ivoire, the Ministry of Solidarity, Social Cohesion and Compensation of Victims received from the Head of State, on 19 April 2016, the final report of the National Commission for Reconciliation and Compensation of Victims, with instructions to publish and implement its recommendations. In its report, the Committee set out a national reparation plan, identifying 316,954 victims. The Ministry launched the pilot stage of the compensation process for 4,500 victims, who comprise 3,500 persons entitled to receive compensation and 1,000 persons with injuries who are to be given medical and psychological care. This stage of the process is not yet complete.

22. The Independent Expert welcomes the efforts made by the Ministry of Solidarity, Social Cohesion and Compensation of Victims and encourages the Ministry of Women, Child Protection and Solidarity, which took over the responsibilities of the former following the cabinet reshuffle in January 2017, to continue the efforts undertaken and consolidate social peace. However, he notes that, to date, no legal text gives a clear definition of a victim of the crises that took place in Côte d'Ivoire, despite the fact that such a definition is discussed in the final report of the Dialogue, Truth and Reconciliation Commission.

23. Victims' associations report that victims are feeling increasingly impatient and frustrated. Despite the efforts made by the National Commission for Reconciliation and Compensation of Victims, some victims do not seem to have been identified. The Independent Expert wishes to reiterate the importance of establishing an appropriate way of enabling all victims not yet identified to register. Furthermore, persons who wish to ascertain whether or not they are on the official list of victims should be able to do so through a consultation process that respects victims' anonymity. In addition, some victims have complained of the interference of intermediaries who claim that, in return for a commission, they will use their influence with the Government to help victims obtain compensation from the funds set aside for reparation. The Independent Expert believes that these complaints should be heard and that investigations should be carried out.

C. National Human Rights Commission of Côte d'Ivoire

24. The Independent Expert once again wishes to stress the importance of the role of the National Human Rights Commission of Côte d'Ivoire in protecting and promoting human rights in Côte d'Ivoire. The departure of UNOCI and the end of the Independent Expert's mission in June 2017 further reinforce the need for it to carry out this role. As for its activities, the Commission has drawn up a strategic document on its functioning, its mandate and the communication side of its work. In 2016, the document was submitted to its financial partners and will be submitted to the United Nations country team.

25. The Independent Expert has noted that the Commission's activities are becoming more dynamic and visible. He welcomes and encourages this positive trend and commends the fact that 31 regional commissions are now up and running.

26. In 2016, the Commission registered 310 appeals, as against only 75 the previous year. Its visibility has progressively increased, largely owing to the support provided by UNOCI, which has helped to train regional commissioners in monitoring respect for human rights and information gathering.

27. The Commission has deployed observers on the ground to ensure that civil and political rights are upheld during elections and referendums. It has noted that the representation of women candidates in legislative elections remains very low: out of 255 deputies, 27 are women.

28. In the area of sexual and gender-based violence, the Commission has established a mechanism for coordinating with the armed forces of Côte d'Ivoire to document violations committed by the military. This monitoring mechanism meets every month to review the situation on the ground. The documenting of identified cases has made it possible for appropriate measures to be taken against perpetrators and sanctions to be imposed.

29. In 2016, the Commission became involved in a number of areas, including: (a) the protection of children in conflict with the law; (b) the monitoring of violations committed by the armed forces (which should be extended to the police and the gendarmerie); (c) the monitoring of important trials concerning national reconciliation; (d) the situation of persons with disabilities; and (e) land conflicts and their impact.

30. It should be noted that the Commission has agreed to coordinate the West African Economic and Monetary Union's network of national human rights institutions, which will share information and experiences and address regional issues, including immigration and terrorism. Côte d'Ivoire has been chosen to chair the network and host its headquarters.

31. The Independent Expert has also learned that the Commission has established a human rights award to promote and raise awareness of the importance of human rights. The chosen theme is mine management, which has given rise to numerous violations of labour and environmental law.

32. In November 2016, the Commission submitted its annual report for 2015 to the Head of State. The report, which was subsequently published and distributed to all parts of the country, focused on the holding of elections, the situation of children in conflict with the law, education for all, the compensation of victims, terrorism, prolonged pretrial detentions, working conditions in companies, the right to health, violence within universities and environmental protection.

IV. Human rights situation

33. During the reporting period, the UNOCI Human Rights Division documented 89 cases of human rights violations, including 13 violations of the right to life directed against 31 persons, 4 of whom were women; 24 violations of the right to physical integrity directed against 25 persons, including 2 women; 33 cases of unlawful and arbitrary arrest and detention directed against 188 persons, including 1 woman; 3 violations of the right of peaceful assembly; and 15 violations of property rights. Only one alleged perpetrator in these cases has been convicted and sentenced to 3 years' imprisonment, while two others have been arrested and remain in pretrial detention.

34. During the same period, the UNOCI Human Rights Division also investigated human rights violations committed during intercommunal violence in Bouna in March 2016. The Division established the facts concerning the deaths of at least 27 people, including 4 women and 2 boys. The perpetrators of those acts were reported to be dozos, while the majority of the victims allegedly belonged to the Fula, Kulango and Malinke ethnic groups. To date, at least 117 people, mainly dozos, have been arrested, while over 30 have been released either on bail or after serving sentences for minor offences such as theft and receiving stolen goods. The criminal investigations are ongoing.

35. UNOCI has documented a total of 34 cases of sexual violence, of which 25 were cases of rape and 9 involved other forms of sexual and gender-based violence, including two forced marriages and two cases of female genital mutilation perpetrated against 14 girls and one woman. At least 23 alleged perpetrators have been arrested; 9 have been tried and sentenced to prison terms ranging from 1 month to 5 years.

36. On 3 June, President Ouattara signed a decree on the establishment of a national committee to combat conflict-related sexual violence. Under the leadership of the President,

the committee is mandated to coordinate the Government's efforts to prevent and respond to such violence.

37. On 11 July, UNOCI and the Office of the United Nations High Commissioner for Human Rights issued a joint report on rape and the punishment of rape in Côte d'Ivoire. This report presents an analysis of the main patterns identified in respect of the rapes and attempted rapes committed in Côte d'Ivoire between 1 January 2012 and 31 December 2015, the status of legal proceedings against alleged perpetrators of rape and attempted rape during this period and the obstacles to prosecuting perpetrators. The Government's response has been swift and constructive. On 13 July 2016, two days after the publication of the report, the Minister of Justice issued a circular on the prosecution of rape to all those working in the justice system under his authority. In the circular, he requested that they stop reclassifying cases of rape as indecent assault and asked the judicial authorities to ensure that investigations were undertaken, including in cases where out-of-court settlements had been agreed on between the parties or the complaint had been withdrawn. The Independent Expert welcomes these positive developments and hopes that all those working in the criminal justice system will respond to them constructively.

38. A number of new constitutional provisions, adopted in November 2016 and mentioned later in this report, address the challenge of ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the International Covenant on Civil and Political Rights. The new provisions also address the need to establish, at the national level, one or several visiting bodies responsible for preventing torture and other cruel, inhuman or degrading treatment or punishment, to act as the national preventive mechanism. In that connection, the Independent Expert welcomes the fact that the Ombudsman of the Republic of Côte d'Ivoire took the initiative to organize a seminar at which African mediators could consider the problem of torture and participate more fully in the fight against that practice in Africa. The seminar took place from 27 February to 1 March 2017.

39. During his visit in January, the Independent Expert was able to meet representatives of human rights organizations, the unfailing vitality of which he noted. These organizations, which all work closely with the National Human Rights Commission of Côte d'Ivoire, focus their efforts on the protection and promotion of women's and children's rights, in particular the fight against early marriage and the exploitation of girls in domestic work, the registration of births, girls' literacy levels and a higher level of representation of women in decision-making and local government. The Independent Expert also welcomes the efforts made to protect the rights of persons with albinism and to combat discrimination in access to education and employment. Concerns over networks of migrant smugglers based in Côte d'Ivoire also raise a number of questions about civil society and reflect the need for further investigation into the causes of migration and trafficking in persons and migrants.

V. Transitional justice and national reconciliation

A. Dialogue, Truth and Reconciliation Commission

40. The Independent Expert welcomes the publication, in October 2016, of the report of the Dialogue, Truth and Reconciliation Commission and encourages activities to raise awareness of its content at a national level. The report, which was two years overdue, summarizes the root causes of the crisis in Côte d'Ivoire, highlighting the issue of land ownership, shortcomings in the democratic process, the lack of justice and security, poverty, gender inequality, the poor functioning of the education system and the failings of the media. Alongside more general observations, the fourth part of the report contains specific recommendations on each of the root causes of the crisis and the criteria governing reparation.

41. At a political level, the report contained the following recommendations: (a) days of remembrance and forgiveness should be held, on which persons who know that they bear some responsibility, including moral responsibility, for the occurrence of the main crises, and who are willing to do so, can ask the nation for forgiveness; (b) dialogue days, initiated

by the President, should be held in order to bring together political parties, civil society organizations, religious groups and traditional leaders; and (c) remissions that stop short of a general amnesty should be granted to the perpetrators of violations committed during political conflicts, in the interests of fostering social peace.

42. In that regard, the Independent Expert stresses that, in cases of serious violations of human rights and international humanitarian law, justice should always have its say before measures that might be needed to bring about social healing are taken. He reiterates that the balanced exercise of justice for all parties involved in the violent conflicts in Côte d'Ivoire, delivered in accordance with the guarantees of a fair trial, forms an integral part of measures for social healing.

B. Criminal justice

43. The proceedings in connection with the post-electoral crisis are still in progress. Of the 17 pending cases, 12 have already been transmitted to the Indictment Division and 5 are still under investigation. According to statistics dating from 5 December 2016, 31 out of 66 cases (67 cases were mentioned in the previous report) have been tried (6 more than in the previous report), 29 cases have been brought before the Indictment Division and 6 cases are currently before the Court of Appeal. Persons charged with an offence and accused persons are no longer remanded in custody, with a view to encouraging pretrial release, satisfying the requirements of reconciliation and avoiding prison overcrowding. However, in order to ensure that accused persons appear before the courts, warrants of commitment are issued 10 days before trials begin, which means that, when they appear in court, such persons should be in detention.

44. The Independent Expert has been informed that the case of Nahibly camp is still before the tenth investigations office and is about to be referred to the Indictment Division. Following the exhumations that took place in relation to this case, 53 bodies have been identified and their families have been traced. The death certificates have been drawn up. The Government should now mobilize sufficient resources to organize an official ceremony for the purpose of returning the bodies to close relatives, thereby enabling them to organize a dignified burial of the deceased and truly begin their mourning.

45. The trial of Simone Gbagbo, who is accused of committing crimes against humanity during the 2010-2011 post-electoral crisis, began in late May 2016. In October 2016, the defence lawyers withdrew from the trial when the assize court refused to call witnesses, including several former and current political figures, in support of their client. In theory, the President of the assize court may, at his discretion, take any measure required to establish the truth, including the summoning of witnesses proposed by the defence, as stipulated by article 310 of the Code of Criminal Procedure of Côte d'Ivoire. The court then appointed other lawyers to represent the accused. However, these lawyers also withdrew a few days after the hearings resumed on 21 February 2017. The accused was acquitted on 18 March 2017.

46. The Independent Expert considers this decision to be an important milestone in the building of reconciliation in Côte d'Ivoire, as it shows that the Ivorian judicial system does not systematically find against all supporters of the former President of Côte d'Ivoire. However, the accused will remain in prison because she has already been sentenced to 20 years' imprisonment in a different trial for breaching State security. Furthermore, the acquittal of Ms. Gbagbo by the assize court of Abidjan does not, in principle, affect the proceedings currently taking place before the International Criminal Court, where the former first lady is also being prosecuted for crimes against humanity. While being fully aware of the difficulty of the task at hand, the Independent Expert would once again like to point out that, to date, neither the national nor the international justice system has demonstrated that it is determined to pursue with equal persistence all the parties responsible for the violent crises suffered in Côte d'Ivoire. This remains a prerequisite for lasting national reconciliation.

47. The Independent Expert has learned that the case concerning the terrorist attacks in Grand-Bassam has come before the Indictment Division. In the fight against terrorism, Côte

d'Ivoire has cooperated with partner States to establish conditions in which it can apply for and enforce rogatory commissions. Another suspect in this case was arrested in early January 2017.

48. With regard to the issue of toxic waste, the Independent Expert has learned of the court's decision to hand down several sentences but is concerned that they have not been accompanied by any warrant of commitment, which means that the persons convicted are allowed to remain at liberty.

C. Military justice

49. The report on the military justice system for 2016 has been made available to the Independent Expert. It describes current proceedings and completed cases relating to the disproportionate use of armed force, attacks on civilians by the defence forces and sexual violence. The Independent Expert has taken note of the sanctions imposed on perpetrators of violence by the military court.

50. The Independent Expert also recalls that a mechanism for monitoring human rights violations committed by members of the Republican Forces of Côte d'Ivoire was established in 2015. This mechanism, which was initially run as a joint operation by UNOCI and the armed forces of Côte d'Ivoire, was extended to include the National Human Rights Commission of Côte d'Ivoire and then taken over by it. The Independent Expert notes with satisfaction that this mechanism still exists and continues to meet on a monthly basis.

51. The Independent Expert has learned that training, awareness-raising and high-level advocacy activities are carried out with the military to eradicate violence and sexual abuse. The persons in charge of the monitoring mechanism have highlighted the initial and in-service training needed to raise awareness of issues concerning the protection of the population and the need to broaden the range of subjects addressed to include citizenship, civics and military leadership. The activities undertaken by the mechanism have received significant support from the United Nations system and, to date, the results have been positive.

52. In June 2016, a decree establishing a national committee to combat conflict-related sexual violence was adopted. This committee, which is chaired by the President of the Republic, takes the form of a board comprising representatives of key ministries and a group of experts. The group of experts is responsible for drawing up an action plan, accompanied by a budget for the committee. During his visit, the Independent Expert noted the committee's intention to create a database of cases of sexual violence committed by members of the security forces (the army, police, gendarmerie, customs officials, and water and forestry authorities).

53. With regard to the more general question of the need to raise the moral and professional standards of the armed forces, the adoption of a charter of ethics and a code of military conduct is still pending. A new law on military planning for 2016-2020 has been adopted and a draft decree on the status of military judges is due to be signed by the Government, and specifically by the Ministry of Defence and the Ministry of Justice. This new status would give greater independence and authority to military judges in exercising their functions. The decree also provides for the establishment of an independent special commission responsible for the monitoring and career progression of military judges. The Independent Expert notes that appropriate training in the areas of citizenship and human rights would make the armed forces more aware of their role in protecting the stability and security of the country, thus enabling that stability and security to flourish in optimal conditions, and of their vital role in protecting the civilian population.

D. Abidjan Detention and Correctional Centre

54. The prisons of Côte d'Ivoire, including the Abidjan Detention and Correctional Centre, continue to suffer from dilapidation and overcrowding. With the support of the

State's technical and financial partners, however, the move to renovate places of detention continues, as does the search for additional funding to build new prison facilities. The need to build women's prisons and education centres for minors has been brought to the attention of the President of the Republic and cooperation partners have already been approached in that connection.

55. The Independent Expert wishes to emphasize that serious thought must be given to the main causes of prison overcrowding, including the frequent use of pretrial detention. In particular, he encourages the authorities to reflect on criminal policy and the use of pretrial detention, which could be regarded as an exceptional measure that judges consider only when a careful assessment suggests that there is a serious risk to the proper conduct of criminal proceedings.

VI. Situation of children in conflict with the law

56. During his mission in January 2017, the Independent Expert carried out a follow-up visit to the Abidjan Juvenile Observation Centre. At the time of his visit, the Centre housed 77 boys and 6 girls. Although the girls continue to be detained with women, during the daytime they are able to participate in activities organized in the Centre, including a literacy programme. There have been improvements in the management of the Centre, especially as regards the supply of water to the building, the provision of three meals a day and the reorganization of a number of educational workshops, including market gardening, carpentry and sewing. Every week, a number of NGOs provide support in the form of better meals, additional food supplies and trainers to run educational workshops. Other successful initiatives include the renovation of the premises and the provision of psychosocial support.

57. The length of time that minors are under observation has been reduced, thanks to better coordination between the judicial protection services for children and the Observation Centre. Similarly, coordination between socioeducational centres and child protection associations and NGOs has been improved, so that, when children leave the Centre, they can continue training to improve their social and professional prospects if they so wish, for example at the Abel Centre in Grand-Bassam or the programme run by the Amigo Foundation in Yopougon. The Independent Expert wishes to commend the role played by civil society, with the support of technical and financial partners, which together have actively contributed to bringing about these improvements. He hopes that such appreciation of their activities will encourage them to continue to provide support that is ever more responsive to the needs and best interests of the children.

58. Despite the general improvements at the Observation Centre, it should not be forgotten that it is still located on the premises of the Abidjan Detention and Correctional Centre, a prison meant to house only adults. In the Independent Expert's view, the Observation Centre should be moved to appropriate premises that are entirely separate from the main prison, so as to adhere strictly to the principle of the separation of children and adults in detention, irrespective of the legal nature of their detention and the stage in their sentence that they have reached, but also to promote educational measures and to comply with the requirements of the principle of the best interests of the child.

59. It is also a matter of concern that minors on remand continue to be detained with adults at the prison. Actually, the relocation of the Observation Centre away from the prison would make it possible for the empty buildings to be used to accommodate minors on remand and thus keep them separate from adult detainees, at the same time allowing them closer contact with juvenile court judges. The Independent Expert is of the view that these measures are urgent and should be implemented without delay. At the time of his visit, he was informed that 84 minors who were on remand, including 4 girls, were being held with adults.

60. The judicial protection services for children and young people, which began operations in January 2016 in Yopougon, Abidjan, Man and Bouaké, are continuing their work (see the report of the Independent Expert's fourth visit) and have been extended to the town of Daloa. The aims of the services are to support juvenile court judges in making decisions in civil and criminal cases and to ensure that social and educational factors are

taken into account in the decisions reached by juvenile court judges as part of a process whose fundamental objective, in criminal cases, must be rehabilitation rather than punishment. The Independent Expert notes that the establishment of these facilities constitutes remarkable progress in the handling of cases of minors in conflict with the law, despite some shortcomings in the monitoring of such cases, including those of minors on remand.

61. The Independent Expert notes that the training for professionals who deal with minors in conflict with the law was updated in 2016 and new working methods were adopted by all those already working in the field. He welcomes the progress made in the approach to justice for minors in conflict with the law and encourages the Ivorian authorities to continue to fine-tune their training programmes. He recommends that the judicial protection services for children and young people should gradually be rolled out to all jurisdictions in Côte d'Ivoire. Lastly, the Independent Expert notes that, in 2016, a policy for the legal protection of children was finalized, which, once adopted, should pave the way for innovations such as the promotion of alternative measures to deprivation of liberty and the prioritization of educational measures.

62. The situation of juveniles in conflict with the law is also central to the interests of the National Human Rights Commission of Côte d'Ivoire. The Commission has organized awareness-raising workshops on children's rights and encouraged the activities of human rights associations. It organizes monthly visits to the Juvenile Observation Centre and the prisons in Dabou, Aboisso and Agboville. The Commission has also carried out a study of the Observation Centre, based on a sample group of 52 minors in conflict with the law, to determine their profile and assess the conditions of their detention. It maintains regular contact with the director of the Observation Centre in order to review the cases of minors and make recommendations on their progress. The Commission has set up a working group to examine cases of minors, which remains in constant contact with bodies working in the field of children's rights. The Independent Expert welcomes the fact that the Commission favours education rather than punishment with regard to children in conflict with the law.

VII. Constitutional and legislative reforms

63. On 30 October 2016, the country adopted a new Constitution inaugurating the Third Republic. The Constitution was approved by referendum, with 93.42 per cent of votes in favour and a participation rate of 42.42 per cent of the 6.3 million people eligible to vote. The most significant developments were the repeal of article 35 of the previous Constitution and the establishment of the Senate and the post of Vice-President. Article 35 of the Constitution of 2000 required that both parents of a presidential candidate should be Ivorian. Since September 2002, that provision had provoked a series of violent political crises that had divided the country into two rival areas. The new Constitution has removed the potentially harmful effects of the provision and created the post of Vice-President, ensuring the continuity and stability of the State if the post of Head of State is vacant.

64. The new Constitution has also expanded the list of human rights and public freedoms: it reaffirms the abolition of the death penalty (art. 3); adopts the principle of equality before the law and explicitly prohibits discrimination (art. 4); prohibits torture and humiliating, cruel, inhuman or degrading treatment, including violence against women, notably female genital mutilation (art. 5); prohibits human trafficking and child labour (arts. 5 and 16); strengthens the rights of persons with disabilities (arts. 32 and 33); introduces guarantees of a fair trial (arts. 6 and 7); guarantees the right to access to information, the right to freedom of expression and the right to freedom of conscience (arts. 18 and 19); establishes the right to a healthy environment, prohibits the illegal storage or dumping of toxic waste on national territory and removes the statute of limitations for the latter practice (art. 27); and recognizes the important role of civil society as part of the expression of democracy (art. 26). Moreover, article 113 of the new Constitution states that "legally incorporated human rights institutions may also refer laws relating to public freedoms to the Constitutional Council before their promulgation". These are very commendable regulatory developments that should be reflected in the activities of the country's authorities and institutions. However, the Independent Expert notes with regret that the authorities have not

seized the favourable opportunity offered by the reform to turn the Commission into a constitutional institution.

65. According to information provided by the Ministry of Justice, Human Rights and Civil Liberties, the reform of the standard legislative texts, including the Civil Code, Criminal Code and Code of Criminal Procedure, is not yet completed but has reached a very advanced stage. The Ministry intends to submit several texts on judicial reforms when the parliament reconvenes. These include the reform of the assize court, the definition of certain offences contained in the Criminal Code and the establishment of alternatives to imprisonment for the punishment of minor offences. With regard to the revised definition of rape, the Independent Expert emphasizes that it should provide for the protection of all victims of sexual abuse, in line with the most comprehensive comparable national and international jurisprudence.

66. The Independent Expert notes with satisfaction the adoption of the circular issued by the Minister of Justice, Human Rights and Civil Liberties on 4 August 2016 on the procedure for dealing with complaints of gender-based violence. The circular draws judges' attention to the seriousness of rape and recommends that they should reconsider the common practice of trying it as a minor offence.

67. The Independent Expert reiterates the urgent need to adopt a range of robust witness protection measures in the criminal justice system. He also emphasizes that the adoption of legislation on the protection of human rights defenders is a significant regulatory step forward that will strengthen the role of civil society in the promotion of human rights. However, any progress made in this regard will have its full effect only once it is accompanied by the appropriate legal framework. On 22 February 2017, the Council of Ministers adopted a decree implementing Act No. 2014-388 of 20 June 2014 on the protection of human rights defenders in Côte d'Ivoire. Its registration for publication in the Official Gazette should then lead to its effective implementation.

VIII. Conclusion and recommendations

A. Conclusion

68. **The fifth and penultimate mission of the Independent Expert in Côte d'Ivoire followed on from his previous missions, in accordance with his mandate to support Côte d'Ivoire in moving towards greater respect for human rights and promoting their advancement. The aim of his sixth and final mission will be to bring the information in his possession up to date and to contribute to the interactive dialogue with Member States of the Human Rights Council at its thirty-fifth session, to be held in June 2017. This conclusion aims to sum up the recommendations made by the Independent Expert pursuant to his mandate.**

69. **The violent crises that have punctuated the history of Côte d'Ivoire since 1999 have had a negative impact on the human rights situation. In general, periods of armed conflict engender a lawlessness that weakens State structures and threatens the social fabric, which is weakened by antagonism between the opposing sides. The standards that normally guarantee social coexistence between individuals and groups are eroded by waves of bigotry and intolerance. When peace returns — usually a slow and gradual process — those who are minded to put the country back on track have a long road ahead of them. The return to human and economic development must be based on solid foundations that respect human rights.**

70. **The responsibility to observe and promote human rights lies with each State, which has sovereignty over its own territory. When States accede to international treaties for the protection and promotion of human rights, they make a commitment alongside their peers, who can help them align themselves with international standards. In all these respects, Côte d'Ivoire has, to date, shown itself to be a model and a success, particularly following the gradual stabilization of the country in the wake of the painful events of the electoral crisis of 2010-2011.**

71. **Currently, the people of Côte d'Ivoire clearly aspire to live in a peaceful country where they can strive for a better future. The restoration of security to government control[1] is a positive step towards macroeconomic development. Such a boost would probably not have been achieved without the support provided by international cooperation, which, in the form of UNOCI, has been in evidence on a daily basis for 13 consecutive years.**

72. **The human rights component of UNOCI consisted of 13 field offices and a central unit based in Abidjan, which made it possible for relevant information on the human rights situation to be reported regularly to the Security Council. The other components of UNOCI contributed to the restoration of security, the rule of law, social cohesion, reconciliation, the establishment of a transitional justice process and dialogue between the parties to the conflict and political representatives. In all these areas, many challenges have been overcome, although a number remain. This is an encouraging sign, richly deserved by the Government and people of Côte d'Ivoire, but vigilance is required in order to ensure that the country remains on the path of progress.**

73. **From the beginning of his mission, the Independent Expert noted with satisfaction that Côte d'Ivoire had accepted almost all of the recommendations made by the Member States of the Human Rights Council at its universal periodic review. Côte d'Ivoire has also submitted its initial report to the Human Rights Committee (CCPR/C/CIV/1) and benefited from the dialogue with the Committee and the ensuing concluding observations and recommendations. The Independent Expert notes that, although the human rights development programme is a cross-cutting issue within all public institutions in Côte d'Ivoire, its implementation is the particular responsibility of the National Human Rights Commission of Côte d'Ivoire and now also of the Ministry of Justice, Human Rights and Civil Liberties. The Independent Expert welcomes the work of the two institutions and reiterates the importance of national ownership of all human rights issues in the country and, in particular, of the Commission's assertion of its independence and its status in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).**

74. **However, the Government of Côte d'Ivoire must continue to pay close attention to a number of human rights issues. The social protests that affected several regions of the country in January 2017 make such vigilance even more important. The tensions created by such social movements tend to show that the security situation in Côte d'Ivoire remains a fragile achievement that could be quickly undermined.**

75. **The Independent Expert therefore considers that there are key issues to which the Government of Côte d'Ivoire should give priority. These include the following:**

(a) **Social reconciliation: efforts made regarding redress for victims must continue and intensify, the justice system must continue to carry out its task of maintaining the balance of prosecutions and convictions of those responsible for the crimes committed during the crises that Côte d'Ivoire has experienced in the past, dialogue must remain a constant feature of the political landscape, and a clear vision and strategy for transitional justice should be adopted and implemented;**

(b) **Land reforms: the shortcomings in the regulatory framework in this area are a significant source of conflict and social tension that could lead to community violence. Land reform is an area in which progress is urgently needed and which requires support through technical cooperation. Pending the preparation and implementation of land reforms, early warning mechanisms to detect trouble spots**

[1] Security Council resolution 2283 (2016) lifted the arms embargo on Côte d'Ivoire, while resolution 2284 (2016) set the end of June 2017 as the cut-off date for the mandate of UNOCI. The progress made in the areas of security and reconciliation and the capacity of Côte d'Ivoire to maintain law and order in its territory and manage the social tensions arising out of the violence committed in the past provide the justification for these two resolutions.

should continue to play their role, so that proactive action can be taken on the basis of constructive dialogue and effective communication with the people. These mechanisms, developed with the assistance of UNOCI, are already operational;

(c) The ongoing reform of the security sector: action on disarmament and on raising the professional standards of the defence and security services must continue, in order to restrict the possession of weapons to the law-enforcement services and ensure the protection of everyone living in Côte d'Ivoire.

76. The question now is how the commitments made by the international community to Côte d'Ivoire can be met in such a way as to enable the country to consolidate the progress made on human rights and to continue to promote them. In consultation with the Government of Côte d'Ivoire, the United Nations country team, the diplomatic corps and other major partners, UNOCI has developed a strategy that should enable Côte d'Ivoire to take over all outstanding cases in full. This strategy is set out in a document entitled "The end of the UNOCI mandate in Côte d'Ivoire: consolidating the gains of peacekeeping". A substantial part of the document deals with strengthening social cohesion, human rights, transitional justice, defence and security. It would be useful to highlight in this report two of the document's main features, namely the importance of the role of the National Human Rights Commission of Côte d'Ivoire in the promotion and protection of human rights and the role of the United Nations country team in Côte d'Ivoire. In keeping with this strategy, the Independent Expert would like to draw attention to the need to continue to strengthen the role and the resources of the National Human Rights Commission of Côte d'Ivoire so that it can fully assume its mandate and to the fact that the transition period following the departure of UNOCI leaves a significant burden of cases for the country team.

77. In these circumstances, the Independent Expert would like to invite the Government of Côte d'Ivoire and the United Nations to discuss the establishment of a temporary international focal point, to be based in Côte d'Ivoire, which would coordinate the implementation of the outstanding human rights issues. The role of the focal point would centre on building the capacity of Ivorian institutions in the protection and promotion of human rights.

78. In his personal capacity, the Independent Expert would like to add that he is honoured to have had the opportunity to serve the people of Côte d'Ivoire.

B. Recommendations

79. The Independent Expert recommends that the Ivorian authorities take the following action to strengthen the security and stability of the country:

(a) Ensure that all Ivorians can share in the benefits of economic progress in a participatory and inclusive manner;

(b) Continue the reform of the Ivorian army and raise its professional standards through the adoption of a charter of ethics and a code of professional conduct, the establishment of a mediation mechanism within the army, the modernization of military justice and the strengthening of initial and in-service training programmes focusing on the promotion of human rights and international humanitarian law;

(c) Continue to support the activities of the national committee to combat conflict-related sexual violence in maintaining its monitoring of sexual violence committed by the national defence and security forces.

80. The Independent Expert recommends that the Ivorian authorities take the following action in support of national reconciliation:

(a) Adopt a legal text that gives a precise definition of the concept of victim in the context of the crises in Côte d'Ivoire;

(b) **Ensure the continuity of the work of the Ministry of Solidarity, Social Cohesion and Compensation of Victims, including the expeditious publication of the report of the National Commission for Reconciliation and Compensation of Victims, in order to ensure that all identified victims are aware of the report and can participate fully in a transparent reparation and compensation process; establish a time frame for the opening of proceedings on the various lists of victims so that they can submit claims and corrections and enter additional information in their files;**

(c) **Ensure the return of displaced persons to Mont Péko or their relocation on available cultivable plots of land and allow all refugees who wish to do so to return to Côte d'Ivoire;**

(d) **Reaffirm the priority of criminal justice over social appeasement and reject amnesties for crimes against humanity or war crimes, while striking a balance between the various mechanisms of transitional justice.**

81. **The Independent Expert recommends that the Ivorian authorities take the following action to strengthen the national system for the protection of human rights:**

(a) **Publish the decree implementing Act No. 2014-388 of 20 June 2014 on the protection of human rights defenders in Côte d'Ivoire;**

(b) **Enhance collaboration between the Ministry of Justice, Human Rights and Civil Liberties and the National Human Rights Commission of Côte d'Ivoire in order to ensure that action is taken to protect and promote human rights, while ensuring that the Commission's independence is fully respected;**

(c) **Continue to provide sufficient financial and logistical resources to support the Commission's training needs and its independent management; support the implementation of the Commission's programme and recommendations.**

82. **The Independent Expert recommends that the Ivorian authorities take the following action to combat impunity and strengthen the rule of law:**

(a) **Continue to expedite legal proceedings relating to the crisis of 2010-2011 in order to seek out the truth;**

(b) **Monitor the implementation of judgments, including the judgment in the toxic waste case;**

(c) **Continue cooperation on improving prison facilities, and in particular on the establishment of a women's prison and educational centres for minors;**

(d) **Reformulate criminal policy, and in particular consider making the use of pretrial detention a measure of last resort.**

83. **The Independent Expert recommends that the Ivorian authorities take the following action to improve the situation of children, especially those in vulnerable situations:**

(a) **Continue to support the improvements carried out at the Juvenile Observation Centre by increasing the Centre's budget and strengthening its educational services;**

(b) **Continue to support the important role played by civil society in improving the situation of children in conflict with the law;**

(c) **Take urgent measures to relocate the Juvenile Observation Centre away from the Abidjan Detention and Correctional Centre and immediately transfer minors who are on remand to the existing premises of the Observation Centre;**

(d) **Encourage the adoption of a national policy on judicial protection for children and young people and the extension of the judicial protection services for children and young people to all jurisdictions.**

84. **The Independent Expert recommends that the Ivorian authorities take the following action with respect to constitutional and legislative reforms:**

(a) **Disseminate the Constitution widely and ensure that national institutions are brought into line with the new constitutional provisions, particularly those concerning the protection and promotion of human rights;**

(b) **Take appropriate steps to comply with the judgment of the African Court on Human and Peoples' Rights on the organization and functioning of the Independent Electoral Commission;**

(c) **Review and put to a parliamentary vote the standard legislative texts; ensure in particular that the revised definition of rape will provide for better protection for victims;**

(d) **Urgently adopt a robust framework for the protection of witnesses in criminal cases;**

(e) **Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the International Covenant on Civil and Political Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance; in connection with the fight against torture, encourage a wider national debate on the creation of a national preventive mechanism.**

85. **The Independent Expert encourages the international community to continue to actively support the efforts of Côte d'Ivoire for the promotion of human rights and in particular to continue to support the institutions of Côte d'Ivoire by agreeing on the establishment of a temporary international focal point responsible for coordinating action to address outstanding issues relating to the protection and promotion of human rights.**